VERMONT BOARD OF NURSING

ALTERNATIVE TO DISCIPLINE PROGRAM
FOR NURSES AND NURSING ASSISTANTS IN RECOVERY

Description and Participation

Board’s Legal Authority:

Statute:
26 V.S.A. § 1574(9) authorizes that the Board of Nursing “may adopt rules establishing a program to serve as an alternative to the disciplinary process for nurses and nursing assistants with chemical dependencies or other professional practice issues as designated by the board.”

Unprofessional conduct, as it applies to chemical dependence, is defined as: “is habitually intemperate or is addicted to the use of habit-forming drugs/substances.” 26 V.S.A. § 1582(5) (RN/LPN) or § 1595(7) (LNA).

Administrative Rules of the Board of Nursing:
Part 18 Alternative Program for Nurses and Nursing Assistants

18.1 Alternative Program
(a) The Board of Nursing may provide for an alternative to the disciplinary process for nurses and nursing assistants with chemical dependencies or other professional practice issues as designated by the Board, provided, that the licensee agrees to voluntarily participate in the specified program.

(b) All records pertaining to a licensee’s participation in the nondisciplinary program are confidential and not subject to discovery, subpoena or public disclosure. That information related to the nondisciplinary program is provided to the licensee’s employer and/or treating professional(s) to ensure adequate monitoring and compliance.

(c) The Board may adopt protocols for use as the program expands its scope.

18.2 Definitions
(a) Chemical Dependency - physical or psychological reliance upon one or more substances including drugs or alcohol.

(b) Alternative Committee - committee appointed by the Board to administer the Alternative Program. The committee shall review applications, pertinent reports and information, and shall impose and monitor conditions as appropriate.

18.3 Criteria for Eligibility In order to be eligible for this program, an individual must:
(a) hold a license or be eligible for licensure in Vermont;

(b) voluntarily request admission to the program;

(c) agree to undergo a comprehensive assessment, at the licensee’s expense, from an approved alcohol and drug abuse counselor and/or other treatment provider based on criteria established by the committee; and
(d) agree in writing to comply with the contract prepared by the committee.

18.4 Criteria Which Disqualify a Licensee from Eligibility The Board reserves the right to discipline any chemically dependent licensee subject to its jurisdiction. Factors which may disqualify a licensee from participation in the Alternative Program include:

(a) conviction of a felony or pending felony charges related to chemical dependency;

(b) having a restricted license in the last five years by a licensing Board or commission for an offense that would constitute unprofessional conduct in this state;

(c) diversion of controlled substances;

(d) having caused actual or potential risk of patient harm;

(e) imminent danger to the public;

(f) recent history of chemical dependency and failed treatment;

(g) having been determined not fit for this program by the independent comprehensive assessment required for entry into the program.

18.5 Agreement Between the Licensee and the Alternative Committee Each candidate for the alternative program shall enter into a written contract with the Board. Under the terms of the contract, the licensee’s participation in the program shall remain confidential and disciplinary action will not be initiated as long as the licensee complies with the terms of the contract. The licensee must agree to the conditions, costs, and restrictions the committee have deemed appropriate for the circumstances.

18.6 Causes for Termination from the Program

(a) Satisfactory completion of the program as designated by the Committee.

(b) Failure to comply with the conditions designated by the Committee.

(c) Disciplinary action. Termination from the program for failing to comply with its terms will subject the licensee to the traditional disciplinary proceedings, including referral to an investigative team, the filing of charges, a hearing, and discipline by the Board.
How the Alternative Program Works:

Each person who wishes to participate in the Program must apply. Prerequisites to participation in the Program may include:

- A telephone or in-person screening including information on conviction and substance use histories
- An Independent Evaluation, conducted by a pre-approved professional, and
- The results of 3 negative urine samples collected on a random, observed basis.

The Program reviews the application and then lets the Applicant know if she or he is eligible to participate. The Program will set conditions and terms of participation in the program which the Program has determined are appropriate to the individual’s circumstances. These conditions and terms of participation will be included in the Applicant’s Alternative Program Contract.

The Applicant must agree to the Program terms, costs, and restrictions and enter into a written Alternative Program Contract with the Board. Once accepted, the Applicant is considered an Alternative Program Participant.

Participation in the Program is not disclosed to the general public. Disciplinary action related to prior habitual intemperance or addiction or use of habit-forming substances will not be initiated as long as the participant complies with the terms of the Contract.

The Participant may remain in the Program so long as she or he complies with the conditions outlined in the Contract. Failure to comply with Program requirements may result in termination from the Program. The Participant’s case will then be referred for formal disciplinary proceedings.

When the Participant has met all terms of the Contract, she or he may petition for discharge from the Program. If the Program finds that the Participant has shown that he or she has satisfactorily met all conditions, the Participant will receive notice that her/his participation is complete.